THE HON'BLE SRI JUSTICE V.V.S.RAO

WRIT PETITION No.15167 OF 2006

DATED 15th SEPTEMBER, 2006

BETWEEN

Mohd.Abdul Samee

… Petitioner

and

The District Minorities Welfare Officer (FAC) and others.

… Respondents

THE HON'BLE SRI JUSTICE V.V.S.RAO

WRIT PETITION No.15167 OF 2006

ORDER:

The petitioner is a civil contractor. He was engaged for construction of a shopping complex appurtenant to Urdu Ghar-cum-Shadi Khana of the wakf known as Jamia Masjid, 7 Grave Yard, Eedgah, Narsapur village and Mandal in Medak District. The construction was taken up under a scheme sanctioned by the District Collector providing for the cost of the construction and the cost of the material to be borne by the Muthavali. Accordingly, the work was entrusted to the petitioner under an agreement, dated 12.11.2001 executed by the second respondent. The petitioner completed construction availing and using the material supplied by the Muthavali, the fourth respondent herein. He alleges that though he was not paid entirely the construction cost, steps are being taken by the District Collector to handover the shopping complex to the fourth respondent. He claims that he got the lien for shopping complex. He alleges that without clearing the bills due to him, the respondents 1 to 3 cannot handover possession to the fourth respondent.

A perusal of the affidavit would show that the dispute raised herein is purely civil in nature. Whether under the agreement, dated 12.11.2001, the petitioner can claim lien over the property and on such ground, whether he can prevent respondents 1 to 3 from handing over the completed shopping complex to the petitioner and whether the petitioner can claim the payment of money under the contract are all matters, which cannot be gone into in a writ petition. The petitioner's remedy lies in approaching the civil Court and filing a suit. The contractor has no right to occupy the constructed building merely on an allegation that the amount was not paid to him. The contractor has to seek recovery of amounts by filing a civil suit.

The writ petition is misconceived and is accordingly dismissed. No costs.

(V.V.S.RAO,J)

15.09.2006.
pln